



Appeal Decision

Site visit made on 23 July 2019

by Ian Harrison BA Hons DipTP MRTPI

an Inspector appointed by the Secretary of State.

Decision date: 09 August 2019

Appeal Ref: APP/L2250/W/19/3229277

The Cottage, Hillside, Sandgate, Kent CT20 3DB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Stephen Kingston against the decision of Folkestone & Hythe District Council.
 - The application Ref Y18/0196/SH, dated 7 February 2018, was refused by notice dated 1 March 2019.
 - The development proposed is the erection of a four-storey building containing 6no. 2 bedroom apartments and a two-storey building containing 1no. 2 bedroom apartment together with car parking, cycle and bin storage following removal of the existing house and garage.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a four-storey building containing 6no. 2 bedroom apartments and a two-storey building containing 1no. 2 bedroom apartment together with car parking, cycle and bin storage following removal of the existing house and garage at The Cottage, Hillside, Sandgate, Kent CT20 3DB in accordance with the terms of the application, Ref Y18/0196/SH, dated 7 February 2018 and the plans submitted with it subject to the conditions set out in the attached schedule.

Procedural Matters

2. The description of development used in the heading and the decision above has been taken from the council's decision notice and the appeal form. It is noted that the appeal form states that the description has not changed, but it is clear that the description is different to that on the original application form. The amended description reflects amendments made during the course of the application, which were consulted upon and formed the basis for the decision of the Council. I have therefore proceeded on the basis of the amended description that has been used by the main parties.

Main Issue

3. The main issue is the effect on the living conditions of the occupants of the neighbouring dwellings with particular regard to noise and disturbance arising from the use of the proposed access.

Reasons

4. The site currently hosts a single dwelling and is accessed from what appears to be a private road that continues from Hillside. The two properties closest to the appeal site are set back from the road, albeit The Clintons has an outbuilding to the front that abuts the road and Robingale has a garage to the front. Further from the site are dwellings that are in close proximity to the road and as such there appears to be habitable rooms in close proximity to the road. A public car park is located in close proximity to the site and the junction of Hillside and the one-way street of Wilberforce Road is only slightly further away. Therefore, although it is likely that the part of the road closest to the site is not used intensively, this is not a locality that is entirely free from traffic and associated noise.
5. The increase in number of properties at the site will intensify the use of Hillside, including the access road, by the residents themselves, visitors and deliveries and collections of various types. Although the number of movements would increase, as the use of the site would remain residential there is no reason to believe that the peak noise level of any individual movement would be louder than that which could occur in conjunction with the existing dwelling or its neighbours. The main variable is therefore the frequency of the movements.
6. The increased vehicle movements associated with the occupation of the development would inevitably be observed and heard by the existing residents, potentially leading to additional noise, fumes, vibration and disturbance from lights. However, intensification does not necessarily mean that unacceptable harm to living conditions would arise, as demonstrated by many other dwellings within the vicinity of the site that are in closer proximity to more intensively used roads. Whilst there is inevitably variation between households in terms of the number of movements that would arise, having regard to the forecasts of the appellant and other interested parties, I do not consider that the movements arising from the proposed development would be so intensive or disturbing that the proposal would cause unacceptable harm to living conditions.
7. Therefore, I conclude that the development would not have an unacceptable effect on the living conditions of the occupants of the existing neighbouring dwellings as a result of the use of the proposed access. As such the proposal does not conflict with saved Policy SD1(k) of the Shepway District Local Plan Review (2006) which requires that the amenity of residents is safeguarded. The weight to afford Policy HB1 of the emerging Places and Policies Local Plan Submission Draft has not been clarified by either party. This policy does not specifically refer to protection against disturbance but it does seek to ensure that development will not lead to an adverse impact on the amenity of future occupants. The overall aim of this emerging policy appears to be similar to policy SD1(k) and therefore does not provide reason to vary my conclusion in respect of the main issue.

Other Matters

8. The site is located within a Conservation Area and as such I have had special regard to the desirability of preserving or enhancing the character or appearance of that area. In this regard I concur with the view of the council that the effect of the larger building on the character and appearance of the

area would not be materially greater than the development that has been granted planning permission. Furthermore, the additional building and parking area to the north of the site, which would repeat the pattern of built form either side of Hillside, would maintain the character of the conservation area. The retention of trees, which would be secured by condition, would also ensure that the character of the Conservation Area is maintained.

9. No evidence has been provided to justify concluding that the development would cause damage to any listed buildings within the vicinity of the site and I do not see grounds to conclude that the development would cause harm to the setting of any listed buildings or the Sir John Moore Statue. I have not been provided with sufficient details of the Sandgate Design Statement to afford this document weight but have had regard to the setting of the site and the locality in any event. The proposal shows the retention of steps leading to Sandgate Esplanade which addresses one of the points raised.
10. Interested parties have suggested that the existing building is of historical significance and therefore should be retained. However, I have been provided with little detail of the heritage significance of the building and therefore, having regard to the planning permission that exists, I do not consider that the existing building is of such significance that its retention should be insisted upon.
11. Interested parties have raised several concerns with respect to the adequacy of the proposed access, particularly in terms of highway safety, the ability for the access to cope with the additional traffic including waste collection and deliveries, access by emergency services and the ownership of the access. Concerns have also been raised in relation to the adequacy of the parking to serve the development. However, no objection was raised by the Highway Authority and the application was not refused for any of these reasons.
12. Given the short length of the narrow part of the access, I consider that users will have adequate opportunity to view each other and manoeuvre or wait to use the access accordingly. The evidence provided in respect of the number of movements also ensures that the number of potential interactions would be minimal. Other legislation and controls will address matters relating to emergency service access and waste collection arrangements and I have no reason to conclude that the arrangements would be less acceptable than the existing situation. Finally, matters relating to ownership and the ability to use the access is a private, civil matter that falls outside the scope of this planning appeal.
13. Interested parties have also raised concerns in relation to the impact of construction works in terms of disturbance, light pollution, damage to property and the structural stability of the site and the surrounding area. Given the proximity to residential properties it is appropriate to require a construction management scheme to be submitted and agreed by the council prior to works taking place which will address some of the concerns raised. If damage to other property was to occur, this is a private, civil matter that is addressed by other legislation and is not therefore a reason to prevent the granting of planning permission. The provision of lighting in an acceptable manner can be addressed by a condition.
14. In terms of structural stability, the Preliminary Ground Investigation Report (January 2019) demonstrates that the development could proceed without

detriment to land stability within the vicinity of the site and therefore, in accordance with Planning Practice Guidance ¹it is appropriate to grant planning permission subject to a condition in relation to this matter.

Conditions and Conclusion

15. For the reasons given and as the other matters raised do not give me reason to reach a different outcome, I conclude that the appeal should be allowed.
16. I have imposed a condition requiring that the development is carried out in accordance with the approved plans in the interests of certainty. In order to protect the character and appearance of the area, I have also imposed a condition requiring the development to be undertaken using the external materials listed on the approved plans. I have also imposed conditions to require the provision of car parking and bicycle storage as shown on the submitted plans in the interests of ensuring that the proposal does not result in unacceptable on-street parking and provides adequate facilities to promote sustainable modes of transport.
17. Conditions to require the use of obscured glazing and the provision of privacy screens as shown on the submitted plans are imposed to ensure the development does not cause a loss of privacy within neighbouring residential properties. Conditions requiring schemes of landscaping and surface water drainage to be submitted, agreed and implemented are imposed in the interests of ensuring the development is harmonious within its setting and in order to ensure that surface water does not undermine land stability and is handled appropriately.
18. Finally, for the reasons set out above, I have imposed conditions in relation to tree retention and protection, land stability and the agreement and implementation of a construction management plan. A condition to control the provision of lighting has been imposed with the dual purpose of minimising the impact of lighting on the amenities of neighbours and mitigating any potential impacts of development on protected species.

Ian Harrison

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 08379-A-L-(00)-X-0100 A, 08379-A-L-(00)-X-0101 1st, 08379-A-L-(00)-X-0102 1st, 08379-A-L-(00)-X-0103 A, 08379-A-L-(00)-X-0104 1st, 08379-A-L-(00)-X-0105 A, 08379-A-L-(00)-X-0106 A, 08379-A-L-(00)-X-0107 A, 08379-A-L-(00)-X-0108 A, 08379-A-L-(00)-X-0109 1st and 08379-A-L-(00)-X-0110 A.

¹ Paragraph: 012 Reference ID: 45-012-20140306 – “How do considerations of land stability fit into development management?”

- 3) The external surfaces of the development hereby permitted shall be constructed in the materials stated on plan nos. 08379-A-L-(00)-X-0109 A and 08379-A-L-(00)-X-0109 1st.
- 4) No dwelling shall be occupied until space has been laid out within the site in accordance with drawing no. 08379-A-L-(00)-X-0105 A for 9 cars to be parked and for vehicles to turn so that they may enter and leave the site in forward gear and that space shall thereafter be kept available at all times for those purposes.
- 5) No dwelling shall be occupied until space has been laid out within the site in accordance with drawing no. 08379-A-L-(00)-X-0109 1st for bicycles to be parked and that space shall thereafter be kept available for the parking of bicycles.
- 6) The development shall only be undertaken in full accordance with the "Tree protection and methods" and "Schedule of tree works" section of the "Tree survey to BS 5837 (2012) with constraints, impacts and Protection plan." No retained tree shall be cut down, uprooted, destroyed, pruned, cut or damaged in any manner within 5 years from the date of the occupation of the building for its permitted use, other than in accordance with the approved plans, without the prior written approval of the local planning authority.
- 7) The buildings hereby permitted shall not be occupied until the windows at first and second floor on the east elevations (serving dining areas and a living area on the southernmost building and a utility and en-suite on the northernmost building) have been fitted with obscured glazing, and no part of those windows that is less than 1.7 metres above the floor of the room in which it is installed shall be capable of being opened. Details of the type of obscured glazing shall be submitted to and approved in writing by the local planning authority before the window is installed and once installed the obscured glazing shall be retained thereafter.
- 8) Apartments AP04 and AP05 (as labelled on plan 08379-A-L-(00)-X-0107) shall not be occupied until privacy screens have been fitted to the balconies as shown on plan 08379-A-L-(00)-X-0108 A in accordance with details which shall have first been submitted to and approved in writing by the local planning authority. The privacy screens shall be retained thereafter.
- 9) No development above slab level of either of the buildings hereby approved shall take place until a scheme of hard and soft landscaping has been submitted to and approved in writing by the local planning authority. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 10) No external lighting shall be installed as part of the development hereby approved until a lighting design strategy has been submitted to and approved in writing by the local planning authority. All external lighting shall be installed in accordance with the lighting design strategy and shall be maintained thereafter in accordance with the strategy.

- 11) No development above slab level of either of the buildings hereby approved shall take place until details of a scheme of surface water drainage has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented prior to the occupation of any dwelling and retained thereafter.
- 12) The development hereby approved shall only take place in full accordance with the conclusions and recommendations of the Preliminary Ground Investigation Report (January 2019).
- 13) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
 - i) the parking of vehicles of site operatives and visitors;
 - ii) loading and unloading of plant and materials;
 - iii) storage of plant and materials used in constructing the development;
 - iv) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
 - v) wheel washing facilities;
 - vi) measures to control the emission of dust and dirt during construction;
 - vii) a scheme for recycling/disposing of waste resulting from demolition and construction works;
 - viii) delivery, demolition and construction working hours.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.